

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1537 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MASURIBEN D/o. RUPABHAI BHAVSINH KODI

Versus

GRAM PANCHAYAT, PONIA & ANR.

Appearance :

MR MM DESAI for the petitioner

MR RN SHAH for the respondents.

CORAM : MR. JUSTICE M.S. PARIKH

Date of decision : 17/11/1997.

ORAL JUDGMENT

1. Heard. This revision application u/S. 115 of the C.P.C. is directed against the impugned order passed by the learned Civil Judge (J.D.) Devgadhbaria below application exh. 85 in Regular Civil Suit No. 8 of 1993 on 27/7/1996.

2. Application exh. 85 was moved by the plaintiff

(the petitioner herein) for amendment of the plaint for substituting the words '30 years' in the 2nd line of para. 3 and 4th line of para. 1 of the plaint for the words '20 years'. The learned trial Judge has rejected the application on the ground that there is inadvertance on the part of the plaintiff as well as the plaintiff's learned advocate. In my opinion, the impugned order apparently suffers from non-application of mind in as much as the learned trial Judge ought to have seen whether there was any alteration in the cause of action and whether there was any prejudice likely to be caused to the defendant. It, therefore, clearly appears that the learned trial Judge failed to exercise the jurisdiction vested in him under Order 6 Rule 17 of the C.P.C.

3. In view of what is stated above, impugned order is quashed and set aside. The application exh. 85 will stand granted. The plaintiff will carry out the amendment within 15 days from the date of receipt of writ of this direction by the trial Court. After the amendment is carried out and after the pleadings are complete the trial Court should see to the suit being heard expeditiously. Rule made absolute in the aforesaid terms. No order as to cost.

* * *